

hua; Mayor René Mascarenas, City of Juarez; Joe Rector, Chihuahua; Tom Mayfield, Chihuahua; Luis Ramos, Chihuahua; Alberto Ruiz Vazquez, Chihuahua; John Stockmeyer, Chihuahua; Dr. Carlos Miranda Garzon, Chihuahua; Jaimie Berrudez, Chihuahua; Hon. Emilio Villarreal Guerra, representing Dr. Norberto Trevino Zapata, Governor of Tamaulipas, and party of two; Mr. and Mrs. Raymond S. H. Hoo, Consul of China; Mr. and Mrs. Rafael Linares, Mexican Consul in Austin.

Mr. de la Garga also presented Mr. and Mrs. Glen Garrett and Mr. and Mrs. Manley Head of the Good Neighbor Commission.

The Speaker then presented former Governor Allan Shivers and Mrs. Shivers and Mrs. Moody, the wife of former Governor Dan Moody, to the Joint Session.

Dr. Madison Scott, Pastor of the First Baptist Church of Austin, delivered the benediction.

The band of Baylor University played "The Eyes of Texas."

Adjournment

The President Pro Tempore announced the purpose of the Joint Session concluded and declared the Senate at 12:40 o'clock p.m. adjourned until 10:30 o'clock a.m. tomorrow in accordance with a motion previously adopted in the Senate.

FIFTH DAY

(Wednesday, January 21, 1959)

The Senate met at 10:30 o'clock p.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

| | |
|----------|-----------|
| Aikin | Krueger |
| Baker | Lane |
| Bradshaw | Martin |
| Colson | Moffett |
| Crump | Moore |
| Dies | Parkhouse |
| Fly | Phillips |
| Fuller | Ratliff |
| Gonzalez | Reagan |
| Hardeman | Roberts |
| Herring | Rogers |
| Hudson | Secrest |
| Kazen | Smith |

Weinert
Willis

Wood

Absent—Excused

Hazlewood Owen

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence

Senator Owen was granted leave of absence for today and the remainder of the week on account of important business on motion of Senator Roberts.

Senator Hazlewood was granted leave of absence for today on account of important business on motion of Senator Baker.

Committee to Escort Governor to Joint Session

The President announced the appointment of the following committee pursuant to the provisions of S. C. R. No. 4 to escort the Honorable Price Daniel to the Joint Session: Senators Martin, Aikin, Moffett, Rogers and Secrest.

Temporary Committee on Governor's Nominations

The President announced the appointment of the following Temporary Committee on Governor's nominations: Senators Martin, Smith and Moffett.

Message from the Governor

The following message received from the Governor today was read and was referred to the Temporary Committee on Governor's Nominations:

Austin, Texas,
January 21, 1959.

To the Senate of the Fifty-sixth Legislature: it\

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

To be Secretary of State: Zollie C. Steakley of Austin, Travis County.

Respectfully submitted,

PRICE DANIEL,
Governor of Texas.

Committee Meeting

Senator Martin asked unanimous consent of the Senate to hold a meeting of the Temporary Committee on Governor's Nominations in Committee Room No. 1 while the Senate was in Session.

There was no objection.

Senate Concurrent Resolution 5

Senator Reagan offered the following resolution:

S. C. R. No. 5, Providing that the State of Texas be represented at a hearing called by the Atomic Energy Commission to consider radioactive waste disposal in the Gulf of Mexico.

Whereas, Plans have been announced that atomic waste material would be deposited into the Gulf of Mexico; and

Whereas, Wildlife Conservation groups interested in preserving marine resources have protested the proposed action; and

Whereas, Technically trained men have expressed concern that radioactive substances might ultimately contaminate the waters of this "last frontier"; and

Whereas, Grave fears are felt that the waste material might enter the food chain and endanger human beings, through its affect on shrimp and other marine life; and

Whereas, Vast potential natural resources might be in jeopardy; now, therefore, be it

Resolved, by the Senate of the State of Texas, the House of Representatives concurring, That the State of Texas be adequately represented at a hearing called by the Atomic Energy Commission beginning in Houston, January 22 to consider objection to this proposed radioactive waste disposal in the Gulf of Mexico.

The resolution was read.

On motion of Senator Reagan and by unanimous consent the resolution was considered immediately and was adopted.

Senate Resolution 12

Senator Lane offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate Mr. and Mrs. Robert F. Rosborough

and their daughter, Gail, of Marshall, Texas; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate and privileges of the floor for the day.

LANE
ROBERTS

The resolution was read and was adopted.

Senator Lane by unanimous consent presented Mr. and Mrs. Rosborough and Gail to the Members of the Senate.

Resolutions Signed

The President signed in the presence of the Senate after the caption had been read the following enrolled resolutions:

S. C. R. No. 2, Providing for Sine Die adjournment.

S. C. R. No. 4, Providing Joint Session to hear address of Governor Price Daniel on January 21, 1959.

Senate Resolution 13

Senator Fly offered the following resolution:

Whereas, We are honored today to have as visitors in the Senate the Methodist Boys of First Methodist Church, Aransas Pass, Texas, and their counsellor, Mrs. Esther McNeill; and

Whereas, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; now, therefore, be it

Resolved, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

Senator Fly by unanimous consent presented the group to the Members of the Senate.

Presentation of Guests

Senator Parkhouse by unanimous consent presented Mr. and Mrs. Walter Blanton of Carrollton, Texas, to the Members of the Senate.

Senate Resolution 16

Senator Moffett offered the following resolution:

Whereas, Midwestern University Choir of Wichita Falls, Texas, participated in the Inaugural Program at Austin Municipal Auditorium honoring Governor and Mrs. Price Daniel and Lieutenant Governor and Mrs. Ben Ramsey on the evening of January 20, 1959; and

Whereas, The performance of Midwestern University Choir was an outstanding part of the Inaugural Program; now, therefore, be it

Resolved, That the Senate of the 56th Texas Legislature does hereby commend and congratulate the Midwestern University Choir of Wichita Falls, Texas, for its outstanding performance on the above mentioned occasion; and be it further

Resolved, That the appreciation of the citizenship of Texas be extended to the members of Midwestern University Choir and its Director, Mr. William V. Boland, for bringing this Choir of sixty-eight trained voices to Austin to participate in the Inaugural Program of January 20, 1959; and be it further

Resolved, That a copy of this Resolution be mailed to Mr. William V. Boland, Director of Midwestern University Choir, Dr. Travis A. White, President of Midwestern University, and to the Librarian of said University.

The resolution was read and was adopted.

Executive Session

On motion of Senator Martin and by unanimous consent, the Senate agreed to hold an Executive Session at 11:55 o'clock a.m. today.

Accordingly, the President directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

At the conclusion of the Executive Session the Secretary of the Senate informed the Journal Clerk that the Senate had confirmed the following nomination of the Governor:

To be Secretary of State: Zollie C. Steakley, Travis County.

In Legislative Session

The President called the Senate to

order as in Legislative Session at 11:56 o'clock a.m.

Joint Session

(To hear address of Governor Price Daniel)

The President of the Senate and the Senators present escorted by the Sergeant-at-Arms and the Secretary of the Senate proceeded to the Hall of the House of Representatives at 11:00 o'clock a.m.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The President called the Senate to order, and announced a quorum of the Senate present.

Honorable Waggoner Carr, Speaker of the House of Representatives, called the House to order, stated the purpose of the Joint Session and announced a quorum of the House present.

The Honorable Price Daniel, Governor of the State of Texas, accompanied by Mrs. Daniel, Miss Ellen Daniel, Mr. and Mrs. Bill Daniel and party were announced by the Doorkeeper of the House.

The Governor's party was escorted to the Speaker's rostrum by Senators Martin, Aikin, Moffett, Rogers and Secrest, on the part of the Senate, and Representatives Cory, Bullock, Winfree, Wells, Jamison, Allen, McGregor of McLennan, Collins, Zbramek and Jones, on the part of the House.

The Speaker of the House presented the Honorable Price Daniel, Governor of Texas, to the Joint Session.

The Governor then delivered the following address:

To the Members of the Fifty-sixth Legislature:

I appreciate the privilege of delivering this message to you in person and wish you every success as the elected representatives of the people of our State. At the outset let me assure you of my cooperation and the cooperation of the Governor's staff throughout this Session.

Although we are in separate branches of the government, the problems of the State are of equal concern to us. They can be solved only by our working and reasoning together. In

this spirit, I shall welcome your suggestions at all times.

Having served six years as a member of the House in which we are assembled and then four years in the United States Senate, I know and respect the powers and responsibilities of the Legislature. I appreciate the fact that it is both our privilege and our duty to work together for the good of Texas and for the people who entrusted us with their government.

I am pleased to note your determination to complete the work of this session within the Constitutional 120 days. I believe it can be done and will cooperate to that end. In any event I do not think members of the Legislature should work without pay. I said so in publicly supporting the annual salary amendment.

CONDITION OF THE STATE

Article IV, Section 9, of the Texas Constitution provides:

"The Governor shall, at the commencement of each session of the Legislature . . . give to the Legislature information, by message, of the condition of the State; and he shall recommend to the Legislature such measures as he may deem expedient."

Now, on the condition of the State, I am glad to report that it is much better than the condition of the General Revenue Fund of the State.

In all seriousness, we know that to be true. Personal income and bank deposits in Texas are at an all-time high. The Wall Street Journal reports that corporation profits have soared during the past quarter and are expected to rise even more during the year. The drought is ended; farmers and cattlemen are in better shape than in many years; the temporary recession, which was felt only slightly in Texas, appears to be over; employment continues to rise; and all predictions are for an increase in business and income through 1959 and 1960.

The oil industry and all who profit from it, directly or indirectly, are still hurt by excessive foreign oil imports, but Texas continues to produce 41% of the Nation's oil. With great expansion in the gas industry, our State produces 50% of the Nation's supply and is shipping more than 53% of its production to other States.

New industries are coming to Texas at a rapid rate. Our population is increasing much faster than the national average. With 9 million citizens now, it is predicted that we will have

12 million by 1975. Nearly 100,000 additional school children enter our public schools each year.

INCREASED GOVERNMENTAL RESPONSIBILITIES

With this phenomenal growth has come a corresponding increase in governmental responsibilities, including larger expenditures for our public schools and colleges. We are engaged in the biggest highway building program in the history of the State and have finally laid the groundwork for a State-wide water planning and development program.

With all of this growth and increase in governmental responsibilities, it is not surprising that there has been an increase in the cost of State government. Because of this increase and the loss of over \$20 million in anticipated revenues on account of restricted production of oil, we are faced with an estimated deficit of \$65 million on August 31 of this year. There is a need for that much more in additional revenues for each year of the next biennium in order to continue present services for our constantly expanding population.

DEFICITS OF THE PAST

Together we face a big task. However, we should take comfort in the fact that, comparatively speaking, our task is no greater than that faced over and over again by the people and the elected representatives of this State since the beginning of its glorious history. From the beginning, Texas has been a big and growing State, but not always as prosperous as today.

President Sam Houston, in his message to the Congress of the Republic of Texas in 1838, explained the need for using paper money to meet the public debt in these words:

"The struggle had left us destitute and naked. There were no banks, there was no money, our lands could not be sold, and the public credit was of doubtful character."

Twenty-three years later when General Houston addressed the Legislature as Governor, things were not in much better shape. He said in his message: "Not a dollar has been at (my) command for months. . . Treasury warrants are already selling at a heavy discount. . ." He complained that Comanche Indians were threatening within 50 miles of the Capitol.

A short time later, with our Nation

and our State split asunder by a civil war, Governor Lubbock, in his message to the 9th Texas Legislature, said:

"No Legislature of any State has ever been called upon to act under more embarrassing circumstances... The State Government is absolutely without a dollar."

After the War Between the States and carpetbag rule had ravished our State, Governor Richard Coke told the 14th Legislature: "That the Treasury is empty we know to be a fact."

In 1905 Governor Lanham in his message to the 29th Legislature said:

"There is now and for some time has been a deficiency in our revenues, and the Treasury is unable to meet the warrants of the State upon presentation."

Thirty-eight years later Governor Coke Stevenson, while I held the gavel on this rostrum as the Speaker of this House, told the 48th Legislature, "We now have a deficit of approximately \$31 million in the General Fund."

Only 12 years later, Governor Allan Shivers reported to the 54th Legislature that the Comptroller estimated a \$61 million deficiency for the ensuing biennium and said that the Legislature "faces more problems of major import than have confronted any other session during the Twentieth Century." During the first five years of this decade, there were four separate annual tax increases totaling more than \$134 million. In the last four years no new taxes have been levied. It is the longest period since 1950 without substantial increases in taxes, and time and growth have simply caught up with us.

If today we faced the problems of Governor Houston with an impoverished State and warring Indians 50 miles from the Capitol, or the broken and defeated South faced by Governor Coke, I admit I would be worried about the outcome of our labors. However, when I read through the pages of history what the chosen officials of Texas did with less material means and under greater hardships than we know today, and how they finally succeeded in meeting every problem necessary to build here the greatest State in the Nation, I know that you and I can and will meet the responsibility of our day as they met theirs.

Only those who are unfamiliar with the past and who lack true vision of

the Texas of tomorrow have cause to fear the duties of today.

APPROVAL OF THE PEOPLE

Of this you may be sure: I have every confidence in you, and I have every confidence in the people of Texas who sent you here to represent them in this Legislature. The great majority of the people of Texas will support us in whatever we do that is right, reasonable, and necessary to operate a good State government and to help build an even greater Texas in the future.

Sometimes I think the people are even better prepared for the additional cost of our schools, colleges, highways, pensions, and the like, than some of us who have the unpleasant duty of deciding the distribution of this added cost. The people voted their wishes at the polls for most of these additional services.

The only trouble is, the people did not vote on how to pay for these programs. That is our job, and on that the people will have the final say after we have performed it.

LOW ADMINISTRATIVE COSTS

There is one important aspect of the State's financial picture that we should repeat over and over again so that all may understand. It is that 92½ cents of every State dollar is spent for four general services: education, highways, public welfare, and hospitals and other eleemosynary institutions.

In marked contrast is the fact that only a little more than 1 cent (to be exact 1.13 cents) out of every State dollar is expended in supporting the Executive and Administrative Departments of our State Government. The Judicial branch is less than ½ cent (to be exact 45/100th cent), and the expenditure for the Legislative branch of our State Government is less than 1/10 of a cent (to be exact 9/100ths cent). On a per capita basis, the Census Bureau report for 1957 shows only two States in the Nation with lower current operation costs than Texas.

It should be obvious to anyone who advocates reduced spending as a means of balancing the budget that the cuts would have to be made in the money now going to our schools and colleges, or to old-age pensioners, needy blind, neglected and dependent children, or to State hospitals for

treatment of those unfortunate people who are unable to come here and speak for themselves.

The school and college programs in this age of space and need for cultivated minds as "the guardian genius of democracy" are crying out for expansion, not for reduction. On public welfare, the people themselves have spoken by heavy votes for welfare amendments in recent general elections.

I have heard no public sentiment for stopping the tremendous progress in our hospital program or for reducing our highway construction. On the contrary, all from whom I have heard are proud of these programs and realize the need for their expansion to meet our growing population.

ECONOMY APPLIED FIRST

The only solution is to adequately finance the programs by eliminating every wasted dollar, and to apply every economy and efficiency in their operation. That is the approach I have made to the entire fiscal program. It is the approach which I urged upon the heads of all departments and agencies of State Government at a meeting which I held in Austin on January 15, 1958. It is the approach followed by the Governor's budget officer. After the budget requests were submitted by all agencies, you will remember that on September 20, 1958, I wrote all of them requesting re-examination because I believed that most of them were too high. Several reduced their requests, and then in the budget I have submitted to you I cut total recommendations 72 per cent below the total requests made by State agencies for the next two years. In this budget I have retained what I consider only the essential increases. My recommendations amount to a total 10 per cent increase over the present biennium, which has proven to be a normal increase for continued progress in this State.

THE DEFICIT AND TAX STRUCTURE

As to the deficit, there may be some comfort in the fact that Texas is not the only State which has an empty general fund. A nation-wide survey published in the January 12th issue of Newsweek reports the following:

"In state after state . . . huge deficits have been piling up. In California the deficit for the current fiscal

year may reach a towering \$285,000,000; in New York it will come to \$220,000,000; in Michigan, \$100,000,000. And if there are no deficits to make up, in many states the new budget demands for the next biennium far outstrips existing tax revenues. In Pennsylvania, for example, the demands for money from the state treasury add up to \$500 million more than they did a year ago; in Wisconsin, the margin is \$100 million."

The fortunate difference between Texas and the other States is that our present per capita tax burden is far less than theirs. Thirty-six States have higher per capita State-local taxes, and Texas and Nebraska are the only States which have neither a general sales tax nor a state income tax.

True, we had several occupation taxes which amount to selective sales taxes, but so do the other States, and usually at a higher rate than we levy here. There is no such thing as getting rid of so-called selective sales taxes, like those on gasoline, cigarettes, beer, liquor and automobiles, by substituting a general sales tax or a state income tax. That is not the choice, because in the 46 States which have either a general sales tax or state income tax, most of them still have these same so-called "selective sales taxes."

For instance, each of the four States joining Texas—New Mexico, Oklahoma, Arkansas and Louisiana—have both the general sales tax and the state income tax. Yet, they levy the same selective sales taxes as Texas (usually at higher rates) on gasoline, cigarettes, beer and liquor (except for Oklahoma, which is dry), and they apply their general sales taxes to motor vehicles at a rate from 2 to 3 times as high as ours.

COMPARISON WITH OTHER STATES

In the intensive study which I have made of taxes levied by the other States and from the excellent source material of the State Tax Study Commission, it was most gratifying to find confirmation of my long-standing belief that Texas can meet its needs and still maintain its competitive tax position with our neighboring States by keeping our selective taxes in line with, or below, those of our comparable neighbors. This would still avoid use of the general sales tax or state

income tax, both of which each of our neighboring States employ.

It is interesting to note that if we did nothing more than raise our five major selective sales taxes to the same rates now levied by Arkansas, this would bring in an additional \$108,800,000 per year to the State Treasury. If we raised our rates to those of Oklahoma, this would produce \$85,100,000 in additional revenue each year. If we went up as high as the Louisiana rates on these same selective taxes, we would receive \$135,400,000 more each year. I repeat, these figures are based only upon the five selective taxes I have mentioned on which we are below the average of our neighboring States. I have prepared a chart showing these comparisons and will attach it to this message as Exhibit 1, for your perusal.

Also, I will attach as Exhibit 2 a table showing "Rates of Major State Taxes Paid by Individuals" in all of the States, and Exhibit 3, a "Comparison of Major Business Taxes Used by State Governments."

You will understand from these charts, studied in connection with the report of the Tax Study Commission, why I have been optimistic concerning the financial situation of our State. They show the possibility of meeting all of our present and future needs without sacrificing our tax advantage and tremendous attraction for new residents and new industries by resorting to a general sales tax or a state income tax.

Because I have opposed these two forms of State taxation for many years, and because the adoption of one means almost certain adoption of the other, the recommendations I shall outline today were purposely prepared to meet our needs without either of these taxes. I trust that those of you who favor one or the other of these taxes will understand and respect my position on the subject, even though you disagree with it. I shall certainly understand and respect yours.

In fact, when I entered the Legislature in 1939, with the State Treasury in a deficit and at least \$26,000,000 needed in new revenues, I was sympathetic to the idea of a general sales tax. After hearing the arguments in the most bitter fight ever waged on the subject in this Legislature, I became convinced that since

a general sales tax actually amounts to an income tax on those who spend all they make, but not on those in the upper incomes who make more than they spend, that eventually it would lead also to a State income tax to equalize the burden. We have enough income tax from the Federal Government. Therefore, as one of 56 House members, I helped defeat the sales tax Constitutional Amendment which the Governor and the House leaders at that time tried on nine separate votes to force upon the Legislature. In the intervening years, my views as a House member have been strengthened as I have witnessed State after State adopting the general sales tax, soon after followed by a state income tax, so that today 25 States have both, and these are in addition to most of the selective taxes which we employ.

PROGRAM TO RETIRE DEFICIT

Our first and foremost problem is to retire the anticipated deficit by August 31, the end of this fiscal year. I recommend that it be treated and disposed of separately and apart from the needs of the next biennium, because it is a debt already incurred. It is not a recurring item. If the \$65,000,000 deficit for this year is lumped together with the needs for the two years of the next biennium, we would have to levy continuing taxes at a rate one-third higher than necessary. This would spread our present deficit over a three-year period, rather than ending it this year and beginning our next biennium with a clean slate.

The budget can be balanced by August 31 by enactment of three measures, as follows:

1. A law directing the State Comptroller to credit to the General Fund any balance remaining in the Omnibus Tax Clearance Fund on the last day of each fiscal year. As in the past there will be \$18 million collected between August 5 and August 31 that the Comptroller holds in suspense without crediting it to this fiscal year. Actually, my proposal is merely a bookkeeping proposition, by which the State would receive credit during this fiscal year for \$18,000,000 actually collected during but not credited to the fiscal year. Under present bookkeeping procedures of the State Comptroller, it is merely held in suspense for use in the next fiscal year. This is a perfectly proper procedure,

but it results in a large sum of money being held in suspense from one fiscal year to the other. On the last day of recent fiscal years this amount has run as high as \$21,000,000. In no fiscal year has this suspense account ever been credited as income for the year in which collected, and if the present method is not changed by law, this amount of taxes actually collected and on hand will never be credited as income. A like amount will always remain dangling in suspense.

The bill which I propose will not affect the availability of funds to meet the allocations of September 1 of this year or any other year, because it provides that the balance credited on the last day of the fiscal year to the General Fund would be held subject to use, if necessary, for supplementing the next day's allocations from the Omnibus Tax Clearance Fund. Although only a bookkeeping procedure, it is one which will more nearly reflect the actual cash condition of the State Treasury than the present method. In fact the Comptroller's estimate itself is merely a bookkeeping estimate. It is not based on the anticipated cash deficit which will actually exist in the Treasury. It may be a mere coincidence, but the cash condition of the State Treasury was \$18,000,000 better off on August 31, 1958, than the Comptroller's book balance upon which he has based the estimate of what our condition will be on August 31 of this year.

This action will give the State full credit for all the monies received and on hand on the last day of this and all other fiscal years, and I know of no better year than this to begin this new bookkeeping procedure. It will reduce the anticipated deficit to \$47,000,000.

2. I recommend early enactment of a law providing for the reporting and delivery to the State Treasury of all abandoned money and other personal property held by any person or corporation for more than 7 years without knowing or having heard from the depositors or owners thereof. Thirty-six States have laws of this nature, known as "Conservator Acts" or "Unclaimed Property Acts," applying to disposition of unclaimed bank deposits, and many of the States have comprehensive laws relating to such funds held also by insurance, pipeline, and other companies.

In a report to me on this subject by the Executive Department Study Committee, composed of the Secretary of State, the State Treasurer, the Comptroller of Public Accounts, State Auditor, the Governor's Budget Director, and his Fiscal Assistant, it was conservatively estimated that this law would bring into the State Treasury a net minimum of \$20 million in usable funds during the first reporting year, and that it would yield at least \$2,500,000 per year thereafter. This estimate is based on the experience in other States and is in accordance with the uniform law recommended on the subject by the Council of State Governments. The theory of this law is based on the escheat law that we have in Texas (Articles 3272 et seq.), which provides for the escheat of property to the State upon the death of an owner who leaves no will and no heirs. Our laws further provide that, under specified conditions, a person is presumed to be dead after 7 years. Therefore, any monies held for unknown heirs for more than 7 years should be presumed to be the property of the State. To say the least, it is not the property of the pipeline company, the insurance company, the bank or other institution which has been holding and using the money for the 7-year period.

It is our duty to demand an accounting of these monies the same as any other money which belongs to the State or to which the State may become entitled.

The Conservator Act would require all of such persons and institutions holding unclaimed funds for more than 7 years to report and deliver them to the State Treasury, whose receipt would relieve them from liability. Thereafter the funds would be advertised in the locality from which received, and would be delivered by the State to any lawful owners who might appear. In the meantime, the State would use the money, maintaining a fund from which lawful claimants could be paid. That which remained unclaimed would become the property of the State under our present laws.

If promptly enacted, with recording and delivery dates before August 31, this would further reduce the deficit by \$20,000,000.

3. I recommend amendment of the Franchise Tax Law effective as soon as possible, and certainly before May

1, so as to adopt a new formula for basis of the tax on corporations engaged in interstate business, in accordance with the terms set out in the report of the State Tax Study Commission, Report No. 5, page 15 (Final Report, p. C-113). In this connection, the Tax Study Commission said:

"As previously noted, the Texas formula for allocating interstate business to the State for franchise tax purposes does not usually reach as large a percentage of such business as the formulas in use by many other states."

The Commission describes the formula and says that if "it were deemed advisable to reach a larger portion of interstate business, this could be done by employing" this formula. It estimates that in changing the present tax base it would increase State revenue \$15,000,000 per year, and this has been confirmed as a conservative estimate by the Secretary of State. If the Commission's work had revealed nothing more than this increased source of revenue, its long labors have been fully rewarded. I compliment the Commission not only on this but on all of the valuable information contained in its report. As pointed out by the Commission, the proposed change is a recognized formula "widely used by other states and has been recommended by a Study Committee of the National Tax Association for use by corporations where separate accounting is not possible."

I further recommend that for one year, beginning May 1, 1959, and automatically ending 12 months thereafter, that the rate of our franchise tax be increased 60 cents per \$1,000 of capital, which would be a one-year increase in the present tax from \$2.25 to \$2.85 per \$1,000 of taxable capital. If enacted before May 1 of this year, this will yield an additional \$14,000,000 in revenue for this fiscal year. This is the best place to put the only new tax necessary under this program, because it is as broad-based as any tax which will be due in full before the end of the fiscal year; its payment can be deducted from the Federal income tax, which means that at least 52% of it would go to Washington if it is not collected here; and because it is payable on May 1 in advance, for the right to do business during the following year. Every business corporation in this State should be willing to share for one year in the retirement of this amount

of the deficit, because, even with our franchise tax relatively high, we do not have the corporate income tax which is collected on corporations in all of our adjoining States.

BUDGET SHOULD BE BALANCED

I realize that some do not feel the urgency of balancing the budget before the end of the fiscal year. There as those who still adhere to the view that it is good to have a deficit in the State Treasury. However, as elected officials of this State, we must be guided by the Constitution, which provides for a "pay-as-you-go" fiscal policy. It is contrary to the intention of the Constitution for us to incur a deficit, except as provided therein, and it is clearly contrary to the intention of the Constitution for us to permit the deficit to continue after it is once incurred and within our power to eliminate it.

Furthermore, all of this deficit talk and publicity reaches people in other States through financial journals and other publications. I assure you that it leaves a bad impression concerning our State government, not only upon our own people but upon those who are thinking about moving here with their industries or their families.

For the reasons stated, I urge you to enact the three measures I have suggested, or other measures of your own, in time to balance the budget before determining future expenditures and revenues. Accordingly, under Section 5 of Article III of the Constitution, I hereby submit the above subjects and proposed legislation as an emergency matter. (This entire program is summarized in Exhibit 4 attached hereto.)

REVENUE PROGRAM FOR NEXT BIENNIIUM

For the ensuing biennium, it will take approximately \$63,000,000 per year in new revenues to care for the budget which I have heretofore recommended and delivered to each of you. In addition, I hereby join the Legislative Budget Board in recommending retirement of the old State of Texas Bonds due to certain of our school funds, in the sum of \$4,031,229.00. I also recommend for payment of medical care, as authorized by the recently adopted Constitutional Amendment, \$11,000,000 for the biennium; for the Driver Education program recommended by the Hale-Aikin Committee, \$4,300,000 for the

biennium; and implementation of the Industrial and Tourist Advertising and Development Program approved by Constitutional Amendment at the rate of \$100,000 for each program per year, or a total of \$400,000 for the biennium. These sums for the biennium, when divided by 2 and added to my previous recommendation, will require an annual total of approximately \$72,800,000 in additional revenues.

This does not mean new taxes in such an amount, because in the attached Exhibit 5, I have outlined a program which would raise \$28,740,000 per year from sources other than new or increased taxes, leaving the amount necessary to be raised in new taxes as \$44,000,000 per year. This, as you know, is a smaller sum than was raised in each of several tax sessions from 1950 to 1955.

FROM PRESENT SOURCES

The \$28,740,000 which I recommend that we raise from sources other than new or increased taxes includes the \$15 million per year heretofore mentioned through a change in the corporation franchise tax formula for interstate corporations; \$4,340,000 per year from elimination of the present tax exemption on cigarettes and beer sold on military reservations; \$3,600,000 per year from increased tax collections under present laws which the Comptroller estimates that he can collect with the additional personnel recommended in the Executive budget; \$3,300,000 per year from fees and the elimination of refunds as recommended in the Executive Department study committee report (pages 12-13, and Appendix III); and \$2,500,000 annually from the Unclaimed Property or Conservator Act heretofore mentioned. (See Exhibit 5 attached.)

FROM FOUR ADDITIONAL TAXES

For the amount to be raised from additional taxes, I recommend two new taxes and two increases, as follows:

1. A new "Severance Beneficiary" tax on natural gas at the rate of 3% of value, which would raise \$19,700,000 the first year and \$21,300,000 the second year, based on the Comptroller's estimates of gas production for the next biennium.

This tax would be paid by any "severance beneficiary" engaged in the occupation of producing or obtaining the production of natural gas

in Texas, with the term defined so as to include any person or corporation for whom Texas gas is produced under a dedicated gas reserve or any other contract of purchase made prior to actual production. It would be paid by the producer only if there is no severance beneficiary to pay for it. Together with other lawyers, I have studied every possible means of our State receiving its fair tax revenue from the trillions of cubic feet of irreplaceable natural gas now being produced, 53% of which is being marketed outside the State. I have confidence in the constitutionality of the measure which I now propose, because it treats interstate and intrastate gas alike.

This, together with the present 7% production tax, will be less than one-half of Louisiana's present production tax of 2.3c per MCF, which averages more than 20% of value.

I feel sure that Texas people who may end up paying part of this tax on the gas consumed in this State will be glad to do so in order to see that those who are enjoying 53% of our production outside the State pay a just tax on this natural resource. The States of New York, Michigan, Indiana, Ohio and Illinois collect from two to nine times as much in taxes per thousand cubic feet on Texas gas than our State collects. True, these States levy their taxes of from 1½c per MCF in Indiana to 6c per MCF in New York directly on the consumer, or as a gross receipts tax on the distributor. Nevertheless, they are receiving from the product of Texas such a high rate that we would be guilty of negligence if we did not obtain a greater share of the tax revenue from this irreplaceable natural resource.

2. An increase of the tax on motor vehicle sales from 1.1% to 1.8% for a net return of \$12,900,000 per year. This would leave our rate on this tax .02% below that of Oklahoma and Louisiana and 1.2% below that of Arkansas.

3. An increase in the tax on distilled liquor from the present rate of \$1.408 to \$2.50 per gallon, which is above Louisiana's rate of \$1.68, but the same as that of Arkansas. This would yield \$9,100,000 per year.

4. I recommend the same percentage of tax on cigars and other tobacco products, with the exception of snuff, which is now levied on cigarettes. This will yield \$7,000,000 per year.

The enactment of all these recommendations both from sources other than new taxes, and from the additional taxes, would yield for the biennium \$10,000,000 more than necessary to meet the budget I have recommended. I have preferred to leave this for your adjustment rather than to recommend less than enough to care for our requirements.

RESOURCES FOR THE FUTURE

In addition to the foregoing, I am sure you will give consideration to the needs for further improvements in our public school system comprehensively reported by the Hale-Aikin Committee as a result of their contacts with interested citizens in every Texas county. I commend this committee and believe it has made many recommendations which should be enacted into law and financed as soon as conditions will permit. The continuous betterment of our public schools with State and local money, rather than Federal aid, is the surest way to provide proper education and maintain local control and operation of our schools.

In this connection it is proper that we should ask if the recommendations in this message would leave sufficient sources of revenue for further enrichment of our public schools, colleges, and highway programs. A comparison with the other States will reveal that these additional sources are available within the framework of our present tax structure.

For instance, among the taxes which we levy below the level of most of the other States, but which I have not touched in the above recommendations, is the gasoline tax. As shown by the Tax Study Commission, 35 States levy higher taxes than our present rate of 5c per gallon. All of our adjoining States are from one to two cents higher. A one-cent increase in this tax would preserve our competitive position and yield \$69,840,000 for the next biennium. One-fourth of this (\$17,460,000) would go under our Constitution to the Available School Fund. If the Colson-Briscoe Farm-to-Market Road program was financed out of this new one cent instead of the General Fund, it would make available \$30 million for the biennium for school or other purposes and still leave \$22,380,000 to meet additional needs of the State Highway Department. Elimination of the schools' one-fourth of the gasoline tax refund would add another

\$9,400,000 which makes a total of \$56,860,000 that could be made available for the biennium for public education from this source alone.

Whether you decide to use this source of revenue now or in the future, it should be reserved to the States and not encroached upon further by the Federal Government. There is talk of the President's recommending a further increase in the Federal gasoline tax to finance the present Federal aid program on highways. As one who was a member of the Senate when this bill was passed, I assure you that we were given to understand that present Federal highway user taxes would be devoted to the Trust Fund to finance this program. Today over \$1.5 billion of Federal highway user taxes are being diverted for other purposes. If these were deposited in the Trust Fund, there would be no need for an increase in the Federal gasoline tax. If another two cents were added to the present Federal tax, Texas highway users would be sending to Washington a total of \$183 million more than is returned to us for highway purposes under the present aid formula.

I urge you to petition the Congress to end the present diversion of these taxes and to oppose any increase in the Federal gasoline tax. This is a tax that is needed by the States. An additional one cent was requested by the Highway Commission in 1955, and the same request has been made by the present Commission. Whenever the people of Texas are ready for further enrichment of our highway and school programs, this is a source of revenue which must be available and which should not be pre-empted by the Federal Government.

Another bright prospect for the future is the report of the Tax Study Commission which indicates that once we reach the level of revenue necessary to provide for our State programs, anticipated increases in revenue projected to 1965 will meet the anticipated growth and needs of the State. (State Tax Study Commission Report No. 3, pp. 4-7; Final Report, pp. 54-57.)

REORGANIZATION FOR FUTURE

As indicated in my Inaugural Message, while we are meeting our financial needs for the present and immediate future, we should be laying the groundwork for complete reorganization of many agencies of the State

Government and a thorough revision of our fiscal policies. I recommend that as much of this be accomplished as possible at the present session and that legislation be enacted for a continuing study along the lines which the Tax Study Commission performed during the past two years.

I have confined this message principally to fiscal matters, since they constitute the chief need for our immediate attention. In the meantime, there are other important subjects on which I shall have separate messages and recommendations.

Thank you again for this opportunity of speaking with you about mutual responsibilities. I have presented my recommendations, and I will be pleased to receive yours. Together we have a great responsibility. Again, I assure you of my cooperation in helping to meet the challenge in a manner which will be worthy of the trust which has been placed in us by the people of Texas.

At the conclusion of the address by Governor Daniel, the President announced the purpose of the Joint Session concluded and requested the Senators to retire to the Senate Chamber.

In Legislative Session

The President called the Senate to order as in Legislative Session at 12:26 o'clock p.m.

Message from the House

Hall of the House of Representatives
Austin, Texas,
January 21, 1959
Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 10, Granting each House permission to adjourn.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Concurrent Resolution 10 on Second Reading

The President laid before the Senate on its second reading the following resolution:

H. C. R. No. 10, Granting each House permission to adjourn from Wednesday, January 21, 1959 to Monday, January 26, 1959.

The resolution was read.

By unanimous consent the resolution was considered immediately and was adopted.

Address of Governor Ordered Printed in Journal

On motion of Senator Aikin and by unanimous consent the address of Governor Price Daniel to the Joint Session was ordered printed in the Journal.

Adjournment

On motion of Senator Hardeman the Senate at 12:29 o'clock p.m. adjourned until 10:30 o'clock a.m. on Monday, January 26, 1959.

Record of Votes

Senators Phillips, Moffett, Krueger, Bradshaw and Colson asked to be recorded as voting "Nay" on the motion to adjourn.

In Memory of
Raymond Gerhardt

Senator Gonzalez offered the following resolution:

(Senate Resolution 14)

Whereas, Our Heavenly Father, in His infinite wisdom did call from his earthly labors, Raymond Gerhardt, of San Antonio, Texas; and

Whereas, Mr. Gerhardt was District Judge who had served two full terms on the bench of the 45th District Court. Judge Gerhardt served as Justice of the Peace, Precinct 1, from 1937 to 1940; was active in all State and Federal courts as trial attorney from 1929 to 1937 and from 1945 to 1951; and

Whereas, Judge Gerhardt was elected president of the San Antonio Bar Association in 1950, was a member of the Board of St. Mary's Law School, was nominated San Antonio's outstanding citizen of 1948 by the San Antonio Jaycees, a member of the San Antonio, Texas and American Bar Association, American Legion, Mason, Woodman of the World, Hermann Sons, Commercial Law League of America, Director of Boys Clubs of San Antonio, past president of San Antonio Optimist Club, board member of Alamo Area Council of Boy Scouts, member of the board of the Baptist Memorial Hospital, member of the Board of Child Guidance Center, member of National Sojourners and Disabled American Veterans; and

Whereas, He is survived by his wife, Mrs. Haidee Williams Gerhardt; his daughter, Miss Haidee Elizabeth Gerhardt; his mother, Mrs. Caroline Gerhardt; two brothers, LeRoy and Harry Gerhardt, all of San Antonio; and

Whereas, It is the desire of the Senate to pay tribute to the memory of this fine public spirited citizen who contributed so much to his city, State and especially to the City of San Antonio; now, therefore, be it

Resolved, by the Senate of Texas, That we extend sincere sympathy to the family of Raymond Gerhardt; that a copy of this resolution be sent to each member of his family; and that a page in today's Journal be devoted to his memory and that when the Senate adjourns today, it do so in memory of Raymond Gerhardt.

The resolution was read and was adopted by a rising vote of the Senate.

In Memory of
Jesse Henry Bullock

Senator Willis offered the following resolution:

(Senate Resolution 15)

Whereas, On June 1, 1958, the City of Fort Worth and State of Texas lost one of its prominent and beloved sons when Judge Jesse Henry Bullock was called to his Eternal Rest; and

Whereas, Judge Bullock was widely known in Texas as a leader in Press, Civic and Church affairs; and

Whereas, Judge Bullock served for four years as a County Clerk and four years as County Judge in Mitchell County with honor and distinction; and

Whereas, Judge Bullock was an outstanding writer and news correspondent and was especially known for his widely read Manufacturers' Column which he created for the Fort Worth Star-Telegram; and

Whereas, This gracious gentleman was a devoted husband and father, a member and leader in the Methodist Church and gave freely of his time and worldly goods to his family, Church and fellow man; now therefore be it

Resolved, That the Senate of Texas do hereby express its deep sympathy to Judge Bullock's family and that copies of this resolution be forwarded to them under the Seal of the Senate of Texas; and be it further

Resolved, That a page of the Senate Journal be set aside as a memorial to Judge Jesse Henry Bullock and that when the Senate of Texas adjourns today it do so in his honor and memory.

WILLIS

Signed—Ben Ramsey, Lieutenant Governor; Aikin, Baker, Bradshaw, Colson, Crump, Dies, Fly, Fuller, Gonzalez, Hardeman, Hazlewood, Herring, Hudson, Kazen, Krueger, Lane, Martin, Moffett, Moore, Owen, Parkhouse, Phillips, Ratliff, Reagan, Roberts, Rogers, Secrest, Smith, Weinert, Wood.

The resolution was read.

On motion of Senator Hardeman and by unanimous consent the names of the Lieutenant Governor and all the Senators were added to the resolution as signers thereof.

The resolution was then adopted by a rising vote of the Senate.